

1996—Pub. L. 104-201, div. A, title II, § 267(c)(1)(C), Sept. 23, 1996, 110 Stat. 2468, added item 2371a.

Pub. L. 104-106, div. A, title VIII, § 802(b), title X, §§ 1061(j)(2), 1062(c)(2), Feb. 10, 1996, 110 Stat. 390, 443, 444, struck out items 2352 “Contracts: notice to Congress required for contracts performed over period exceeding 10 years”, 2356 “Contracts: delegations”, and 2370 “Biological Defense Research Program”.

1994—Pub. L. 103-355, title I, § 1301(c), title II, § 2002(b), title III, § 3062(b), title VII, § 7203(a)(3), Oct. 13, 1994, 108 Stat. 3287, 3303, 3337, 3380, added item 2374, substituted in item 2358 “Research and development projects” for “Research projects” and in item 2371 “Research projects: transactions other than contracts and grants” for “Advanced research projects: cooperative agreements and other transactions”, and struck out item 2355 “Contracts: vouchering procedures” and item 2369 “Product evaluation activity”.

1993—Pub. L. 103-160, div. A, title II, § 214(b), title VIII, § 828(a)(2), (c)(2), Nov. 30, 1993, 107 Stat. 1586, 1713, 1714, struck out item 2362 “Testing requirements: wheeled or tracked armored vehicles” and added items 2370a and 2373.

1992—Pub. L. 102-484, div. A, title VIII, § 821(c)(2), div. D, title XLII, § 4271(b)(3), Oct. 23, 1992, 106 Stat. 2460, 2696, struck out items 2363 “Encouragement of technology transfer” and 2365 “Competitive prototype strategy requirement: major defense acquisition programs”.

1991—Pub. L. 102-190, div. A, title VIII, §§ 802(a)(2), 803(a)(2), 821(c)(2), Dec. 5, 1991, 105 Stat. 1414, 1415, 1431, substituted item 2352 for former item 2352 “Contracts: limited to five-year terms”, struck out item 2368 “Critical technologies research”, and substituted item 2372 for former item 2372 “Independent research and development”.

Pub. L. 102-25, title VII, § 701(e)(5), Apr. 6, 1991, 105 Stat. 114, inserted period at end of item 2366.

1990—Pub. L. 101-510, div. A, title II, § 241(b), title VIII, § 824(a)(2), title XIII, § 1331(5), Nov. 5, 1990, 104 Stat. 1517, 1604, 1673, struck out items 2357 “Contracts: reports to Congress” and 2359 “Salaries of officers of Federal contract research centers: reports to Congress” and added items 2370 and 2372.

1989—Pub. L. 101-189, div. A, title II, § 251(a)(2), title VIII, §§ 802(c)(4)(B), 841(c)(2), Nov. 29, 1989, 103 Stat. 1404, 1486, 1514, substituted “testing and lethality testing required before full-scale production” for “and lethality testing; operational testing” in item 2366, substituted “research” for “plan” in item 2368, and added item 2371.

1988—Pub. L. 100-456, div. A, title II, § 220(b), title VIII, §§ 823(a)(2), 842(b), Sept. 29, 1988, 102 Stat. 1941, 2018, 2026, added items 2361, 2368, and 2369.

Pub. L. 100-370, § 1(g)(4), July 19, 1988, 102 Stat. 847, added item 2351, and struck out item 2361 “Availability of appropriations”.

1987—Pub. L. 100-180, div. A, title XII, § 1231(10)(C), (12), Dec. 4, 1987, 101 Stat. 1160, substituted “defense” for “Defense” in item 2364 and “federally” for “Federally” in item 2367.

Pub. L. 100-26, § 5(3)(B), Apr. 21, 1987, 101 Stat. 274, made technical amendment to directory language of section 909(a)(2) of Pub. L. 99-500, Pub. L. 99-591, and 99-661. See 1986 Amendment note below.

Pub. L. 100-26, § 3(1)(B), Apr. 21, 1987, 101 Stat. 273, made technical amendment to directory language of section 234(c)(2) of Pub. L. 99-661. See 1986 Amendment note below.

1986—Pub. L. 99-661, div. A, title II, § 234(c)(2), Nov. 14, 1986, 100 Stat. 3849, as amended by Pub. L. 100-26, § 3(1)(B), Apr. 21, 1987, 101 Stat. 273, added item 2364.

Pub. L. 99-500, § 101(c) [title X, §§ 909(a)(2), 910(a)(2), 912(a)(2)], Oct. 18, 1986, 100 Stat. 1783-82, 1783-143, 1783-144, 1783-146, and Pub. L. 99-591, § 101(c) [title X, §§ 909(a)(2), 910(a)(2), 912(a)(2)], Oct. 30, 1986, 100 Stat. 3341-82, 3341-143, 3341-144, 3341-146; Pub. L. 99-661, div. A, title IX, formerly title IV, §§ 909(a)(2), 910(a)(2), 912(a)(2), Nov. 14, 1986, 100 Stat. 3849, 3922, 3924, 3926, renumbered title IX, Pub. L. 100-26, § 3(5), Apr. 21, 1987, 101 Stat. 273; as amended by Pub. L. 100-26, § 5(3)(B), Apr. 21, 1987, 101

Stat. 274, amended analysis identically, adding items 2365, 2366, and 2367.

1985—Pub. L. 99-145, title I, § 123(a)(2), title XIV, § 1457(b), Nov. 8, 1985, 99 Stat. 601, 763, added items 2362 and 2363.

1982—Pub. L. 97-258, § 2(b)(3)(A), Sept. 13, 1982, 96 Stat. 1052, added item 2361.

1981—Pub. L. 97-86, title VI, § 603(b), Dec. 1, 1981, 95 Stat. 1110, added item 2360.

1979—Pub. L. 96-107, title VIII, 819(a)(2), Nov. 9, 1979, 93 Stat. 819, added item 2359.

1962—Pub. L. 87-651, title II, § 208(b), Sept. 7, 1962, 76 Stat. 523, added item 2358.

1958—Pub. L. 85-599, § 3(d), Aug. 6, 1958, 72 Stat. 516, struck out item 2351 “Policy, plans, and coordination”.

## § 2351. Availability of appropriations

(a) Funds appropriated to the Department of Defense for research and development remain available for obligation for a period of two consecutive years.

(b) Funds appropriated to the Department of Defense for research and development may be used—

(1) for the purposes of section 2353 of this title; and

(2) for purposes related to research and development for which expenditures are specifically authorized in other appropriations of the Department of Defense.

(Added Pub. L. 97-258, § 2(b)(3)(B), Sept. 13, 1982, 96 Stat. 1052, § 2361; renumbered § 2351 and amended Pub. L. 100-370, § 1(g)(1), July 19, 1988, 102 Stat. 846.)

## HISTORICAL AND REVISION NOTES 1982 ACT

| Revised section | Source (U.S. Code) | Source (Statutes at Large)  |
|-----------------|--------------------|---|
| 2361 .....      | 31:649c(2).        | Aug. 10, 1956, ch. 1041, § 40(2), 70A Stat. 636; Nov. 17, 1971, Pub. L. 92-156, § 201(b), 85 Stat. 424. |

The words “Unless otherwise provided in the appropriation Act concerned” are omitted as unnecessary and for consistency. The word “Funds” is substituted for “moneys” for consistency in title 10.

## 1988 ACT

Subsection (a) is based on section 2361 of this title.

Subsection (b) is based on Pub. L. 99-190, § 101(b) [title VIII, § 8015], Dec. 19, 1985, 99 Stat. 1185, 1205.

## PRIOR PROVISIONS

A prior section 2351, act Aug. 10, 1956, ch. 1041, 70A Stat. 133, related to policy, plans, and coordination relative to research and development on scientific problems relating to the national security, prior to repeal by Pub. L. 85-599, § 3(d).

## AMENDMENTS

1988—Pub. L. 100-370 renumbered section 2361 of this title as this section, designated such provisions as subsec. (a), and added subsec. (b).

## § 2352. Defense Advanced Research Projects Agency: biennial strategic plan

(a) REQUIREMENT FOR STRATEGIC PLAN.—Every other year, and in time for submission to Congress under subsection (c), the Director of the Defense Advanced Research Projects Agency shall prepare a strategic plan for the activities of that agency.

(b) CONTENTS.—The strategic plan required by subsection (a) shall include the following matters:

(1) The long-term strategic goals of that agency.

(2) Identification of the research programs of that agency that support—

(A) achievement of those strategic goals; and

(B) exploitation of opportunities that hold the potential for yielding significant military benefits.

(3) The connection of the activities and programs of that agency to activities and missions of the armed forces.

(4) A technology transition strategy for the programs of that agency.

(5) A description of the policies of that agency on the management, organization, and personnel of that agency.

(c) SUBMISSION OF PLAN TO CONGRESS.—The Secretary of Defense shall submit to Congress the strategic plan most recently prepared under subsection (a) at the same time that the President submits to Congress the budget for an even-numbered fiscal year under section 1105(a) of title 31.

(Added Pub. L. 108–136, div. A, title II, §232(a), Nov. 24, 2003, 117 Stat. 1422.)

#### PRIOR PROVISIONS

A prior section 2352, acts Aug. 10, 1956, ch. 1041, 70A Stat. 133; Dec. 5, 1991, Pub. L. 102–190, div. A, title VIII, §803(a)(1), 105 Stat. 1414; Pub. L. 102–484, div. A, title X, §1053(4), Oct. 23, 1992, 106 Stat. 2501, required Secretary of military department to give notice to Congress of contracts performed over a period exceeding 10 years, prior to repeal by Pub. L. 104–106, div. A, title X, §1062(c)(1), Feb. 10, 1996, 110 Stat. 444.

#### § 2353. Contracts: acquisition, construction, or furnishing of test facilities and equipment

(a) A contract of a military department for research or development, or both, may provide for the acquisition or construction by, or furnishing to, the contractor, of research, developmental, or test facilities and equipment that the Secretary of the military department concerned determines to be necessary for the performance of the contract. The facilities and equipment, and specialized housing for them, may be acquired or constructed at the expense of the United States, and may be lent or leased to the contractor with or without reimbursement, or may be sold to him at fair value. This subsection does not authorize new construction or improvements having general utility.

(b) Facilities that would not be readily removable or separable without unreasonable expense or unreasonable loss of value may not be installed or constructed under this section on property not owned by the United States, unless the contract contains—

(1) a provision for reimbursing the United States for the fair value of the facilities at the completion or termination of the contract or within a reasonable time thereafter;

(2) an option in the United States to acquire the underlying land; or

(3) an alternative provision that the Secretary concerned considers to be adequate to

protect the interests of the United States in the facilities.

(c) Proceeds of sales or reimbursements under this section shall be paid into the Treasury as miscellaneous receipts, except to the extent otherwise authorized by law with respect to property acquired by the contractor.

(Aug. 10, 1956, ch. 1041, 70A Stat. 134.)

#### HISTORICAL AND REVISION NOTES

| <i>Revised section</i> | <i>Source (U.S. Code)</i>  | <i>Source (Statutes at Large)</i>                                      |
|------------------------|--|--|
| 2353(a) .....          | 5:235e (1st sentence; and 2d sentence, less 2d and last provisos).<br>5:475j (1st sentence; and 2d sentence, less 2d and last provisos).<br>5:628e (1st sentence; and 2d sentence, less 2d and last provisos). | July 16, 1952, ch. 882, §4 (less 3d and last sentences), 66 Stat. 725. |
| 2353(b) .....          | 5:235e (2d proviso of 2d sentence).<br>5:475j (2d proviso of 2d sentence).<br>5:628e (2d proviso of 2d sentence).  |  |
| 2353(c) .....          | 5:235e (last proviso of 2d sentence).<br>5:475j (last proviso of 2d sentence).<br>5:628e (last proviso of 2d sentence).  |  |

In subsection (a), the words “furnished to” and “for the use thereof” are omitted as surplusage.

In subsections (a) and (b), the words “United States” are substituted for the word “Government”.

In subsection (b), the introductory clause is substituted for 5:235e (words of 2d proviso before clause (1)), 475j, and 628e. The words “that \* \* \* considers” are substituted for the words “as will in the opinion”. The words “an alternative” are substituted for the words “such other”.

In subsection (c), the words “Proceeds of” are substituted for the words “That all moneys arising from”.

#### LIMITATIONS ON MODIFICATIONS OF CERTAIN GOVERNMENT-FURNISHED EQUIPMENT; ONE-TIME AUTHORITY TO TRANSFER A CERTAIN MILITARY PROTOTYPE

Pub. L. 111–84, div. A, title X, §1043, Oct. 28, 2009, 123 Stat. 2456, as amended by Pub. L. 111–383, div. A, title X, §1075(d)(12), Jan. 7, 2011, 124 Stat. 4373, provided that:

“(a) LIMITATION.—An article of military equipment that is an end item of a major weapon system may not be furnished or transferred to a private entity for the conduct of research, development, test and evaluation under contractual agreement with the Department of Defense, if such research, development, test, and evaluation necessitates significantly modifying the military equipment, until the senior acquisition official of a military department, or his designee, submits to the congressional defense committees certification in writing—

“(1) that the modification of such article of military equipment is necessary to execute the contractual scope of work and there is no suitable alternative to modifying such article;

“(2) that the research, development, test, and evaluation effort is of sufficient interest to the military department to warrant the modification of such article of military equipment;

“(3) that—

“(A) prior to the end of the period of performance of such a contractual agreement, the article of military equipment will be restored to its original condition; or

“(B) it is not necessary to restore the article of military equipment to its original condition because the military department intends to dispose of the equipment or operate the equipment in its modified form.